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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,	)	CIVIL NO. 04-00671 HG LEK
	)	
Plaintiff,	)	DEFENDANT'S STATEMENT
	)	REGARDING PLAINTIFF'S MOTION
v.	)	<u>IN LIMINE</u> #2; CERTIFICATE OF
	)	SERVICE
MICHAEL CHERTOFF, Secretary,	)	
DEPARTMENT OF HOMELAND	)	
SECURITY,	)	Date: January 25, 2008
	)	Time: 2:00 p.m.
Defendant.	)	Judge: Hon. Helen Gillmor
	)	
_____	)	

DEFENDANT'S STATEMENT REGARDING  
PLAINTIFF'S MOTION IN LIMINE NO. 2

In his Motion In Limine No. 2, plaintiff seeks to exclude the fact that the court has granted summary judgment on plaintiff's termination claim, arising from his November 2003 failure to pass a recertification test. Since the personnel action at issue at trial is a September 2003 nonpromotion decision, defendant agrees that the recertification test, and the

court's ruling on the termination claim, have no bearing on this case.

The fact that plaintiff is no longer employed at TSA, however, is significant to plaintiff's damages. Counsel for the parties have therefore agreed to stipulate that plaintiff left TSA's employment in December 2003, and that the jury should not speculate as to the reason for the end of the employment relationship.

DATED: January 22, 2008, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

By /s/ Thomas A. Helper  
THOMAS A. HELPER  
Assistant U.S. Attorney  
Attorneys for Defendant

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FOR THE DISTRICT OF HAWAII

RAYMOND WARE,	)	CIVIL NO. 04-00671 HG LEK
	)	
Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
v.	)	
	)	
MICHAEL CHERTOFF, Secretary,	)	
DEPARTMENT OF HOMELAND	)	
SECURITY,	)	
Defendant.	)	
	)	
	)	

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically through CM/ECF:

Daphne E. Barbee  
[desekmet@aloha.net](mailto:desekmet@aloha.net)

January 22, 2008

DATED: January 22, 2008, at Honolulu, Hawaii.

/s/ Coleen Tasaka-Shoda

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